

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

IN THE MATTER OF
William B. and Nancy Witt,
Petitioners-Appellants.

v.

Floyd County Board of Review,
Respondent-Appellee.

ORDER

³⁴
Docket No. 09-37-0022
Parcel No. 05-08-354-002-00

On August 21, 2009, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioners-Appellants, William B. and Nancy Witt, requested this appeal be considered without hearing and submitted evidence in support of their petition. They were self-represented. The Marion County Board of Review designated Floyd County Attorney Jesse M. Marzen as its legal representative. It submitted documentary evidence prepared by Assessor Bruce C. Hovden in support of its position. The Appeal Board now having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

William B. and Nancy Witt, owners of property located at 111 N. Quinby, Nora Springs, Iowa, appeal from the Floyd County Board of Review decision reassessing their property. The subject property consists of a 1692 square-foot, two-story, frame dwelling built in 1977 on a 89 x 100 foot lot with a 624 square-foot attached garage. The dwelling has a full basement with 625 square feet of finish.

The real estate was classified as residential for the January 1, 2009, assessment and valued at \$142,440, representing \$16,200 in land value and \$126,240 in improvement value. The Witt's

protested to the Board of Review and marked on the protest form the ground of downward change in value since the last assessment. They also attached a letter indicating the value of the property had decreased, and they compared the sales prices of neighboring properties to the assessed values of those properties. They indicated that they believed that the value of \$112,000, the assessed value of the property in January 2002, was the actual value and a fair assessment of the property. The Board of Review denied the protest stating “[i]nsufficient evidence to prove excessive and insufficient evidence to prove a change in value since the last assessment.”

The Witt’s then appealed to the Board. They seek relief between \$24,000 to \$30,000.

Although the Witts marked the ground downward change, their letter indicates to this Board that they were contending the market value of the property was incorrect. Additionally, the Board of Review’s decision notes that it found there was insufficient evidence to prove the assessment was “excessive.” This indicates the Board of Review considered the market value of the property. We, therefore, conclude the Witts’ protest is essentially a claim that the property is over-assessed or assessed for more than authorized by law under Iowa Code section 441.37(1)(b). *See Security Mut. Ins. Ass’n of Iowa v. Bd. of Review of City of Fort Dodge*, 467 N.W.2d 301, 305 (Iowa Ct. App. 1991) (noting that even though appellant protested on downward change in a reassessment year, the claim was really that the property was over-assessed).

The Witt’s submitted an April 2009 letter to the Board of Review stating that the largest impact on the value of their property in Nora Springs is the loss of the high school. The Witt’s also attached to the letter a list of eleven home sales that compares the difference between the assessed values and the sales prices of those properties. The data indicates an average of 18.12 percent difference between the sales prices and assessed values. The Witts contended that if the high and the low values are eliminated, the average equals a 16.51 percent difference between the sales prices and assessed values.

In the Witt's opinion the subject property's assessment should be decreased between 16.51 percent and 18.12 percent to reflect the sales ratio.

The Witt's also submitted evidence of a recent sale of a property that sold in July 2008 for \$115,000 and is assessed at \$144,700. Finally, the Witt's noted that they believe that it is more difficult to sell two-story dwellings as compared to one-story dwellings.

Bruce Hovden, on behalf of the Floyd County Board of Review, submitted evidence in support of the assessment. In Mr. Hovden's written statement, he indicates that Floyd County did a complete revaluation of residential property for the January 1, 2006, assessment year. Mr. Hovden noted that the assessment of the subject property has not changed nor have the Witts protested the value in the 2006, 2007, or the 2008 assessment years.

Mr. Hovden responded to the Witts' assumption that the assessed value of property should be lowered because the Nora Springs High School closed is not supported by sales data. Mr. Hovden noted that Nora Springs does have a middle school and elementary school, but the high school consolidated in 2007 with Manly and is now known as Central Springs High School. Mr. Hovden also responded that realty sales did not support the assumption that few people would be interested in two-story dwellings. In support of this conclusion, Mr. Hovden submitted similar properties that sold in 2008. The data indicated a median assessment sales ratio of 87.74 percent. He also contends this data would indicate that, on average, the residential realty is under-assessed in Nora Springs.

The Board of Review also introduced an independent appraisal conducted by Curtis L. Joerger, Vanguard Appraisals, Inc., Cedar Rapids, Iowa. Mr. Joerger's final estimate of value for the subject property as of January 1, 2009, was \$140,000 using the market approach to value. The appraisal report indicated four properties sold that had a range in sales price from \$102,000 to \$171,000. Mr. Joerger made adjustments for age, gross living area, basement finish, site size, location, garage size, and other

amenities. Gross adjustments ranged from 18 % to 30 %. Mr. Joerger also noted in the appraisal that the subject property had been listed for sale in 2006 for \$149,900.

This Board finds that there was sufficient evidence to suggest the Witt's property is over-assessed. Reviewing all the evidence, we find that the independent appraisal conducted by Curtis Joerger most accurately reflects the fair market value of the property as of January 1, 2009.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. Iowa Code § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa code § 441.21.(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

Copies to:

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Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on 9-3, 2009

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other

Signature [Signature]